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District Counsel

IN THE UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA
FRESNO DIVISION

In re

TULARE LOCAL HEALTHCARE
DISTRICT, dba TULARE REGIONAL
MEDICAL CENTER,

Debtor.

CASE NO. 17-13797

Chapter 9

Adv. No.:

**NOTICE OF REMOVAL OF LAWSUIT
PENDING IN STATE COURT TO
BANKRUPTCY COURT (28 U.S.C §
1452)**

GRAHAM PREWETT, INC.,

Plaintiff,

v.

TULARE LOCAL HEALTHCARE
DISTRICT, dba TULARE REGIONAL
MEDICAL CENTER; DOES 1 through 100,

Defendants.

1 TO THE CLERK OF THE ABOVE ENTITLED COURT, AND TO ALL PARTIES IN
2 THE CIVIL ACTION IDENTIFIED HEREIN AND HEREBY REMOVED, THE CLERK OF
3 THE SUPERIOR COURT OF CALIFORNIA IN AND FOR THE COUNTY OF TULARE:

4 PLEASE TAKE NOTICE that Debtor TULARE LOCAL HEALTHCARE DISTRICT,
5 dba TULARE REGIONAL MEDICAL CENTER ("TRMC"), as Defendant in a case brought
6 against it in the Superior Court of California in and for the County of Tulare (the "Superior
7 Court"), does hereby remove the action filed in the Superior Court, identified with more
8 particularity below, to the United States Bankruptcy Court for the Eastern District of
9 California, Fresno Division.

10 1. This Notice of Removal ("Notice") is made in accordance with 28 U.S.C. §§
11 1334(b), 1452(a), 157, and BR 9027 and is based on this Notice and the Exhibit(s)
12 attached hereto and on all of the records and documents filed in the above-entitled matter.

13 2. On September 30, 2017, TRMC commenced proceedings in the United
14 States Bankruptcy Court for the Eastern District of California, Fresno Division, pursuant
15 to Chapter 9 of the Bankruptcy Code, as Case No. 17-13797 (the "Bankruptcy Case").

16 3. On May 3, 2017, prior to TRMC's Bankruptcy Case, Plaintiff Graham Prewett,
17 Inc. ("GPI") initiated a civil lawsuit against TRMC styled *Graham Prewett, Inc. v. Tulare*
18 *Local Health Care District, dba Tulare Regional Medical Center, Case No. VCU269517,*
19 *Tulare County Superior Court* (the "Lawsuit").

20 4. By virtue of the Lawsuit, GPI asserts claims against TRMC for Breach of
21 Contract, Account Stated, and Attorneys' Fees.

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1 5. 28 U.S.C. § 1452(a) permits removal of any claim or cause of action to the
2 district court for the district where such civil action is pending provided that the such
3 district court has jurisdiction of such claim or cause of action under 28 U.S.C. § 1334.

4 6. Section 1334(b) provides that district courts have jurisdiction of all civil
5 proceedings related to cases under Title 11. TRMC's Bankruptcy Case arises under Title
6 11 and the Lawsuit is related to the Bankruptcy Case for the reasons described more fully
7 below.

8 7. The test for whether a civil proceeding is related under Section 1334(b) is
9 relatively straight forward. "The usual articulation of the test for determining whether a
10 civil proceeding is related to bankruptcy is whether the outcome of the proceeding could
11 conceivably have any effect on the estate being administered in bankruptcy." In re Fietz,
12 852 F.2d 455, 457 (9th Cir. 1988), quoting Pacor v. Higgins, 743 F.2d 984 (3d Cir. 1984)
13 (overruled on other grounds by Things Remembered, Inc. v. Petracca, 516 U.S. 124
14 (1995)).

15 8. The Bankruptcy Case and the Lawsuit are related because the claim(s)
16 encompassed by the Lawsuit have a clear and direct impact on the bankruptcy estate
17 and will therefore have an effect on the administration of the estate.

18 9. Because the Lawsuit and the Bankruptcy Case are related, pursuant to 28
19 U.S.C. § 1334(b), the United States District Court for the Eastern District of California (the
20 "District Court") has jurisdiction over each and every cause of action asserted in the
21 Lawsuit.

22 10. Further, under 28 U.S.C. § 157 and the general reference of the District
23 Court with respect to bankruptcy matters, the Bankruptcy Court has jurisdiction of the
24 Lawsuit pursuant to 28 U.S.C. § 1334(b).

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11. The Lawsuit is not a proceeding before the United States Tax Court or a civil action by a governmental unit to enforce such governmental unit's police or regulatory power.

12. Bankruptcy Rule 9027 mandates this Notice be filed with the Bankruptcy Court because it is the Court where the related matter (the Bankruptcy Case) is pending.

13. Upon removal, the action encompassed by the Lawsuit is a core proceeding pursuant to 28 U.S.C. § 157(b)(2), and TRMC consents to entry of final orders or judgment by the Bankruptcy Judge.

14. Attached as Exhibit "A" to this Notice are copies of all process, pleadings (as narrowly defined by F.R.C.P. Rule 7(a)) and minute entries and orders filed prior to removal.

15. Promptly after the filing hereof, TRMC's counsel shall file a Notice of Removal with the Clerk of the Superior Court of the State of California, County of Tulare.

Dated: January 4, 2018

WALTER WILHELM LAW GROUP,
a Professional Corporation



Riley C. Walter, Attorneys for Debtor
Tulare Local Healthcare District, dba
Tulare Regional Medical Center